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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/615,189 | 07/09/2003 | Daijiro Yamasaki | XA-9905 | 9231 |

181 7590 04/10/2006

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EXAMINER

KRAUSE, JUSTIN MITCHELL

ART UNIT PAPER NUMBER

3682

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/615,189

Applicant(s)

YAMASAKI, DAIJIRO

Examiner

Justin Krause

Art Unit

3682

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,7,10,12,14,16,18 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,2,4,6,8,9,11,13,15,17,19,20 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species 1 in the reply filed on January 30, 2006 is acknowledged.

Applicant indicates claims 1-22 are believed to read on species 1. The Examiner respectfully disagrees. Claim 3 recites "a buffer member interposed between slide-abutting surfaces" not present in Species 1, and therefore the Examiner withdraws claim 3 as not reading on the elected embodiment and further withdraws claims 5, 7, 10, 12, 14, 16, 18 and 21 as being dependent upon claim 3.

Drawings

2. Figures 12-14 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 2, 4, 8, 11, 13, 15, 17, 19, 20 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "said column member" and it is unclear if the rear or front column member is being referenced.

Claim 4 recites the limitations "the slide-abutting surface" and "the center of the sway", there is no antecedent basis for this limitation.

Claims 13,15, 17, 19, 20 and 22 recite the limitation "as to get close to each other" which is indefinite because 'close' is a relative term and it is not clear what distance is defined by close.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 4, 9, 11, 13, 15, 17, 19, 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Satoh et al. (US Patent 6,282,977).

Satoh discloses a tilt adjusting type steering apparatus for a vehicle, comprising:

-a front column member (15) fixed to a car body;

-a rear column member (14) connected in a swayable manner to said front column member;

-a fixed gear (31) formed on one of said front column member and said rear column member;

-a movable gear (32) formed on the other of said front column member and said rear column member;

-a gear pressing lever (33) swayed to effect fastening at a tilt adjusted position by making said movable gear mesh with said fixed gear or to effect releasing from the tilt adjusting position by disengaging said two gears from each other; and

-an operator lever (34) for interlocking with and swaying said gear pressing lever while being swayed by an operation of an operator. (see Col 2, lines 25-53)

Regarding claim 2, as best understood, the handle portion (34b) for the operator is disposed below said column member.

Regarding claim 4, as best understood, the handle portion of said operator lever is disposed farther away from the center of sway (34a, see fig 13) of said operator lever than the slide-abutting surface (33b).

Regarding claims 9 and 11, a proximal side end portion of said gear pressing lever is supported in a swayable manner on a lower side (35a) of said rear column member,

a proximal side end portion of said operator lever is supported in the swayable manner on a side surface (Figs 13 and 16 show the operator lever supported in a

swayable manner on a side surface) of said rear column member, a middle portion thereof abuts on said gear pressing lever (shown in Figs 13 and 16), and a front side end portion thereof is bent as a handle portion (34b) and hereafter extended up to a lower part of said rear column member, and

said operator lever, when swayed in back-and-forth directions of the vehicle, interlocks with and sways said gear pressing lever in the back-and-forth directions of the vehicle. (Col 4, lines 29-48)

Regarding claims 13, 15, 20 and 22, as best understood, a biasing means (36) elastically biases the gear pressing lever and the operator lever in such directions as to get close to each other.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6, 8, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Satoh in view of Janeczko et al (US 2002/0020244).

9. Satoh discloses all of the claimed subject matter as described above, but does not provide a material of the operator lever.

Janeczko teaches an operator lever (60) over molded with a plastic composite and states that any material can be used that provides adequate strength and resistance to wear. (Paragraph 0027)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the operator lever of Satoh out of a plastic composite as taught by Janeczko to provide adequate strength and resistance to wear.

Regarding the limitation that the operator lever is molded, "[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (MPEP 2113 [R-1])

Regarding claims 17 and 19, as best understood, a biasing means (36) elastically biases the gear pressing lever and the operator lever in such directions as to get close to each other.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Krause whose telephone number is 571-272-3012. The examiner can normally be reached on Monday - Friday, 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMK
4/4/06



RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER